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Oceans and the law of the sea: oceans and the law of the sea

Letter dated 2 April 2018 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit to you herewith a note verbale from the Ministry of Foreign Affairs of China to the Ministry of Foreign Affairs of Vietnam (see annex) regarding the letter dated 26 December 2017 from the Permanent Representative of Vietnam to the United Nations addressed to the Secretary-General (A/72/692).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 77 (a).

(*Signed*) **Ma** Zhaoxu
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the People's Republic of China

18-05772 (E) 270418

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Annex to the letter dated 2 April 2018 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Ministry of Foreign Affairs of the Socialist Republic of Vietnam, and with reference to the Diplomatic Note (No.915/NG-UBBG) concerning matters related to the South China Sea that are annexed to the letter, dated 26 December 2017, from Nguyen Phuong Nga, Permanent Representative of the Socialist Republic of Vietnam to the United Nations, to H.E. Mr. Antonio Guterres, Secretary-General of the United Nations, in which the aforesaid Diplomatic Note is requested by Vietnam to be circulated, has the honor to reiterate China's positions as follows:

I. The Vietnam's aforesaid letter and Diplomatic Note has spread lots of false and misleading information, fabricated so-called historical and legal bases. It presents distorted interpretation of a Chinese leader's remarks out of context, attacks China's legitimate actions of safeguarding its territorial sovereignty, and raised illegal territorial claims to China's Xisha Qundao (the Xisha Islands) and Nansha Qundao (the Nansha Islands). The real purpose of Vietnam's attack on China's legitimate actions is to cover up the fact that it has illegally occupied some islands and reefs of China's Nansha Qundao. China firmly opposes and absolutely rejects the unwarranted accusations made by Vietnam against China, as well as Vietnam's attempt to fabricate the so-called "disputes".

II. China has indisputable sovereignty over Nanhai Zhudao (the South China Sea Islands), including Xisha Qundao and Nansha Qundao, and their adjacent waters, which is supported by ample historical and legal evidence. China is the first to have discovered, named, and explored and exploited Nanhai Zhudao and relevant waters, and the first to have continuously, peacefully and effectively exercised sovereignty and jurisdiction over them, establishing China's sovereignty and relevant rights and interests in the South China Sea.

As early as the 2nd century B.C. in the Western Han Dynasty, the Chinese people sailed in the South China Sea and discovered Nanhai Zhudao in the long course of history. Numerous historical documents and relics prove that the Chinese people have developed and exploited Nanhai Zhudao and relevant waters in a sustained way. Since the Tang Dynasty, Nanhai Zhudao has been placed under China's administrative jurisdiction. After that, the successive Chinese government has exercised jurisdiction over Nanhai Zhudao and relevant waters in a continuous, peaceful and effective manner through measures such as establishment of administration, naval patrols, resources development, astronomical observation and geographical survey.

In the 1930s and 1940s, France and Japan invaded and illegally occupied by force some islands and reefs of China's Nansha Qundao. The Chinese people rose to fight back strenuously and the Chinese government took a series of measures to defend China's sovereignty over Nansha Qundao. In the last years of the Second World War, international instruments, among others, the 1943 *Cairo Declaration* and 1945 *Potsdam Proclamation* demanded Japan to restore to China all the territories it had stolen from China. Once the War ended, the Chinese government recovered Taiwan, the Penghu Liedao, Xisha Qundao and Nansha Qundao that were invaded and occupied by Japan. In February 1948, the Chinese Government promulgated the dotted line to reaffirm China's territorial sovereignty and relevant rights and interests in the South China Sea. Since its founding on 1 October 1949, the People's Republic of China has repeatedly reiterated and further upheld its sovereignty of Nanhai Zhudao and relevant rights and interests in the South China Sea by measures such as

adopting legislations, establishing administration and making diplomatic representations.

III. For quite a long time after the Second World War, many countries in the world including Vietnam recognize that Xisha Qundao and Nansha Qundao are part of China's territory. Prior to 1974, none of the successive Vietnamese governments had ever challenged China's sovereignty over Xisha Qundao and Nansha Qundao. Vietnam had officially recognized Xisha Qundao and Nansha Qundao as part of China's territory since ancient times. This position was reflected in its government statements and notes as well as its official newspapers, maps published by the Department of Survey and Mapping of the Prime Minister's Office and textbooks revised and published by the Ministry of Education.

On 4 September 1958, the government of the People's Republic of China issued a declaration, stating that the breadth of the territorial waters of the People's Republic of China shall be 12 nautical miles and making it clear that "This provision applies to all territories of the People's Republic of China including ... the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and all other islands belonging to China". Ten days later, Premier Pham Van Dong of the Vietnamese Government sent a diplomatic note to Premier Zhou Enlai of China's State Council, solemnly stating that "the Government of the Democratic Republic of Vietnam recognizes and supports the declaration of the Government of the People's Republic of China on its decision concerning China's territorial sea made on September 4, 1958" and "the Government of the Democratic Republic of Vietnam respects this decision".* There is no doubt that Vietnam "recognizes" and "agrees with" the whole Statement, including the part that Xisha Qundao and Nansha Qundao belong to China. The claim that Premier Pham Van Dong's diplomatic note only supported the decision by China to extend its territorial sea to 12 nautical miles is simply a lie made up by Vietnam, which cannot deceive the international community.

However, after 1975, in a blatant breach of the *Charter of the United Nations* and the basic norms governing international relations, Vietnam has sent troops to invade and illegally occupied 29 islands and reefs of China's Nansha Qundao. This is a serious violation of China's territorial sovereignty. According to basic norms of international law, including the principle of Estoppel, Vietnam's relevant acts are illegal and of no effect.

Besides, Vietnam makes illegal territorial claims to China's Xisha Qundao and attempted to take advantage of all possible opportunities to fabricate out of thin air the so-called "disputes", which China finds deeply alarming and categorically opposes. Xisha Qundao has been China's inherent territory since ancient times, which is beyond any dispute. China is hereby strongly opposed to the attempt by Vietnam to create the so-called "disputes of the Xisha Qundao". Such attempt of Vietnam gains no support and will lead to nothing.

IV. In January 1974, the Chinese military and people drove the invading army of the Saigon authorities of South Vietnam out of Shanhu Dao (the Shanhu Island) and Ganquan Dao (the Ganquan Island) of Xisha Qundao and defended China's territory and sovereignty. In March 1988, the Vietnamese Navy made a forced landing on Chigua Jiao (the Chigua Reef) of China's Nansha Qundao, and wounded Chinese personnel. The Chinese military was forced to counterattack. Vietnam's irresponsible accusations against China's legitimate actions to defend its territorial sovereignty and preserve the safety of lives and properties of its people are totally unacceptable to China.

* The text of the note in Vietnamese is on file with the Secretariat and is available for consultation.

V. The Democratic Republic of Vietnam and the subsequent Socialist Republic of Vietnam never recognized the legitimacy of the Saigon authorities of South Vietnam. In recent years, Vietnam frequently invokes the statements and actions of Saigon authorities of South Vietnam to support its illegal claims. Such approach not only violates the fundamental principle of international law and international relations, but also goes against the consistent path and position of the Communist Party and the Government of Vietnam. More importantly, the so-called "historic basis" faked by the Saigon authorities of South Vietnam are absolutely distortion and fabrication of historical truth, and they themselves are null and void.

VI. China's routine military training in relevant maritime areas of Xisha Qundao and the development of cruise tourism, are both normal activities of national defense and peaceful construction within the scope of China's sovereignty, and are therefore beyond reproach.

VII. In order to expound systematically China's consistent positions on matters related to the South China Sea, the Chinese Government promulgated respectively on 12 July and 13 July 2016 the *Statement of the Government of the People's Republic of China on China's Territorial Sovereignty and Maritime Rights and Interests in the South China Sea* and the white paper entitled *China Adheres to the Position of Settling through Negotiation the Relevant Disputes between China and the Philippines in the South China Sea*. Disregarding the basic facts, Vietnam's accusations against the above-mentioned documents of China lack basic legal and logic bases, and affect by no means China's territorial sovereignty over Nanhai Zhudao and its relevant rights and interests in the South China Sea.

VIII. While firmly upholding its territorial sovereignty and maritime rights and interests in the South China Sea, China is always committed to settling the disputes related to Nansha Qundao by peaceful means through negotiation and consultation with sovereign states directly concerned, including Vietnam, and maintaining peace and stability in the South China Sea together with ASEAN Member States.

At present, thanks to the joint efforts by China and ASEAN Member States, the situation in the South China Sea has been eased and cooled down, taking on incessantly sound momentum. Meanwhile, the China-Vietnam relations have maintained a generally healthy and stable development. China urges Vietnam to abide by international law including the *Charter of the United Nations*, respect China's territorial sovereignty and maritime rights and interests in the South China Sea, conscientiously implement bilateral agreements and important consensus between the leaders of the two countries, end hyping up the issue and its smearing provocation, work with China in the same direction in continuing to settle the differences between the two countries through negotiation and consultation and actively promote maritime cooperation and joint development, so as to make its due contribution to maintaining peace and stability in the South China Sea and promoting the development of bilateral relations.